

# OVERVIEW OF CORPORATE TAXES AND TAX INCENTIVES

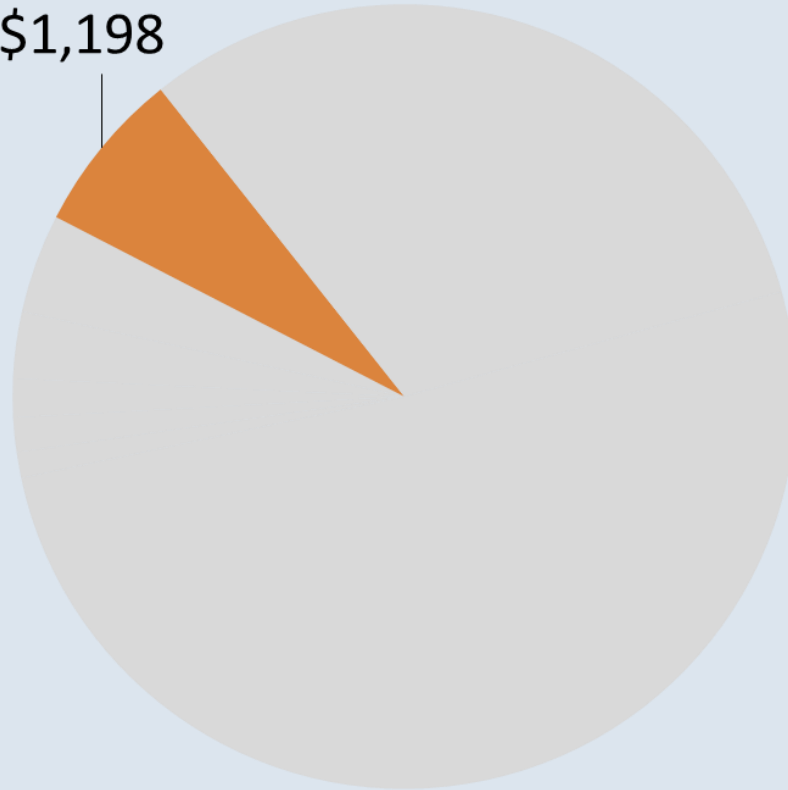
Joint House and Senate Finance, February 3, 2011  
Jonathan Tart, Fiscal Research Division

# Income/Franchise Tax Revenue



- Corporation Taxes are the third largest category of revenues for the State
- Approximately 10% of State tax revenues were attributable to the Corporate Income and Franchise Tax for Fiscal Year 2009-2010

Corporate  
\$1,198



## Corporate Income Tax

5-6% of General Fund Revenues

# NC Corporate Income Tax Rates

- 1921: 3% of net income
- 1939: 6% of net income
- 1987: 7% of net income
- 1991: 7.75% of net income, plus surtax
- 1996: phased down rate to 6.9%, effective after 1999
- 2009: 3% surtax for 2009 and 2010

# Some Statistics from 2008 Tax Year

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- About 79,000 corporate taxpayers
- Less than 1/3 of these companies actually had a net tax liability
- Among those that had a tax liability, 78% had taxable income of \$100k or less, but they paid only 2.6% of the tax

# More Statistics from 2008

- C-Corporations with NC taxable income of over \$1 million represented 88% of the total corporate income tax revenue, but they made up only 2% of the corporations filing returns
- 60% of total corporate income tax revenue attributable to 200 corporations with NC taxable income of over \$10 million

# Computing NC Taxable Income

- NC taxable income = Federal taxable income, as adjusted
- Internal Revenue Code Update
- Key differences
  - ▣ NEL vs NOL
  - ▣ Bonus depreciation

# NC taxable Income Apportioned

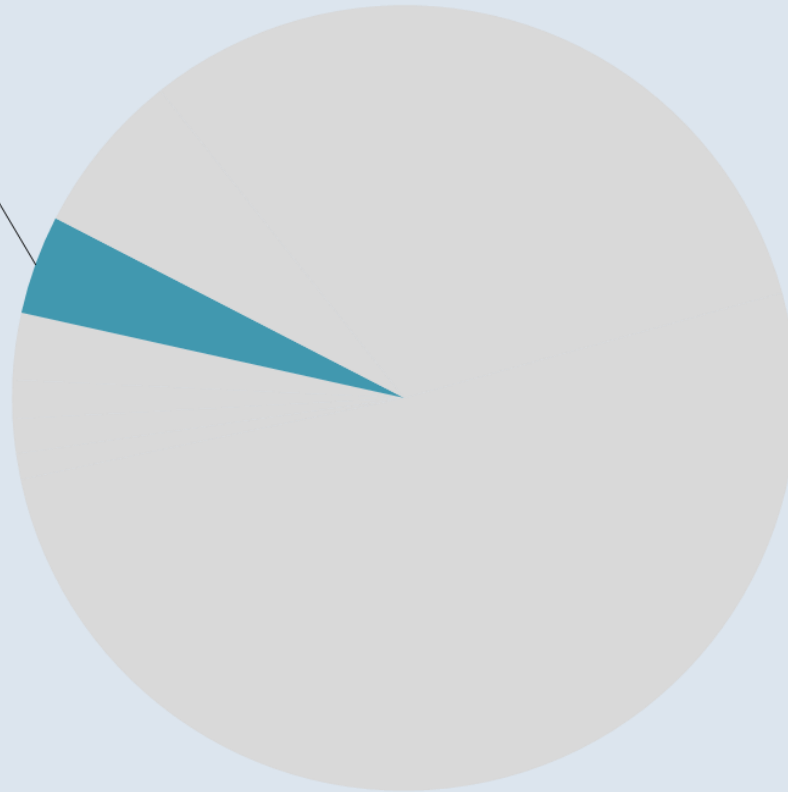
- Multistate corporations apply NC apportionment formula to determine NC taxable income
- Apportionment formulas
  - ▣ Three factors: Sales, Property, and Payroll
  - ▣ Double-weighted sales (1988)
  - ▣ Single sales (2009 for a 'qualified capital intensive corporation')



# Separate Entity Reporting

- NC requires a separate return
- Must determine State net income as if a separate return had been filed for federal tax purposes
- *Strategy:* Create legal structures to shift income from one state to another, lower tax, state
  - Delhaize
  - WalMart
  - Limited

Franchise  
\$724



## Franchise Tax

4% of General Fund Revenues

# Franchise Tax

- Privilege tax for:
  - ▣ Privilege of engaging in business
  - ▣ The “enjoyment, under the protection of the laws of this State, of the powers, rights, privileges and immunities derived from the State by the form of” the existence of the business structure
  - ▣ The benefit and protection received from the government and laws of NC in doing business

# Who pays Franchise Tax?

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- ❑ C corporation
- ❑ S corporation
- ❑ Limited liability company (LLC) that elects to be taxed as a corporation under the IRC

# Businesses Not Subject to the Tax

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- ❑ Limited liability company (other than ones electing to be taxed as a corporation)
- ❑ Partnership
- ❑ Sole proprietor
- ❑ Insurance companies

# Calculation of Tax

Tax rate applied to highest of three asset bases:

- Capital stock, surplus, and undivided profits apportioned to NC using the apportionment percentage determined for income tax
- Book value of NC real and tangible personal property, less outstanding debt created to acquire or improve the real property
- 55% of the appraised value of NC real and tangible personal property

# Some Statistics from 2008 Tax Year

- Taxpayers with franchise taxable amount over \$40 million made up less than 1% of the returns, but paid 66% of the total tax
- Amounts due by companies is generally modest. 99% of taxpayers owe \$110,000 or less.

# Rate of Tax

- \$1.50 per \$1,000 of taxable assets (.0015)
- \$35 minimum tax
- \$75,000 maximum tax for holding companies – those that receive at least 80% of income from subsidiaries



# Utility Franchise Tax

- Applies instead of the general franchise tax
- Calculated on gross receipts
- Applies to:
  - ▣ Electric power company – 3.22% rate
  - ▣ Water utility company - 4% rate
  - ▣ Sewer utility company – 6%
- Tax on electric power companies is shared with cities

# Tax Incentives

- Tax Credits
  - ▣ Article 3J Jobs and Investment Credits
  - ▣ Research and Development
  - ▣ Renewable energy
  - ▣ Film production
  - ▣ State ports
  - ▣ Real property donations

# Article 3J Tax Credits

- Tax Credits for Growing Businesses
  - ▣ Replaced William S. Lee Act Incentives in 2007
  - ▣ Credit for Creating Jobs
  - ▣ Credit for Investing in Business Property
  - ▣ Credit for Investing in Real Property (Tier 1 counties only)

# 2008 Article 3J Jobs Credits Generated

	Number of New Jobs	Credits Generated
Tier One	2,284	28,550,000
Tier Two	839	4,253,000
Tier Three	3,249	2,637,875
Total	6,372	35,440,875

# 2008 Investment in Business Property Credits Generated

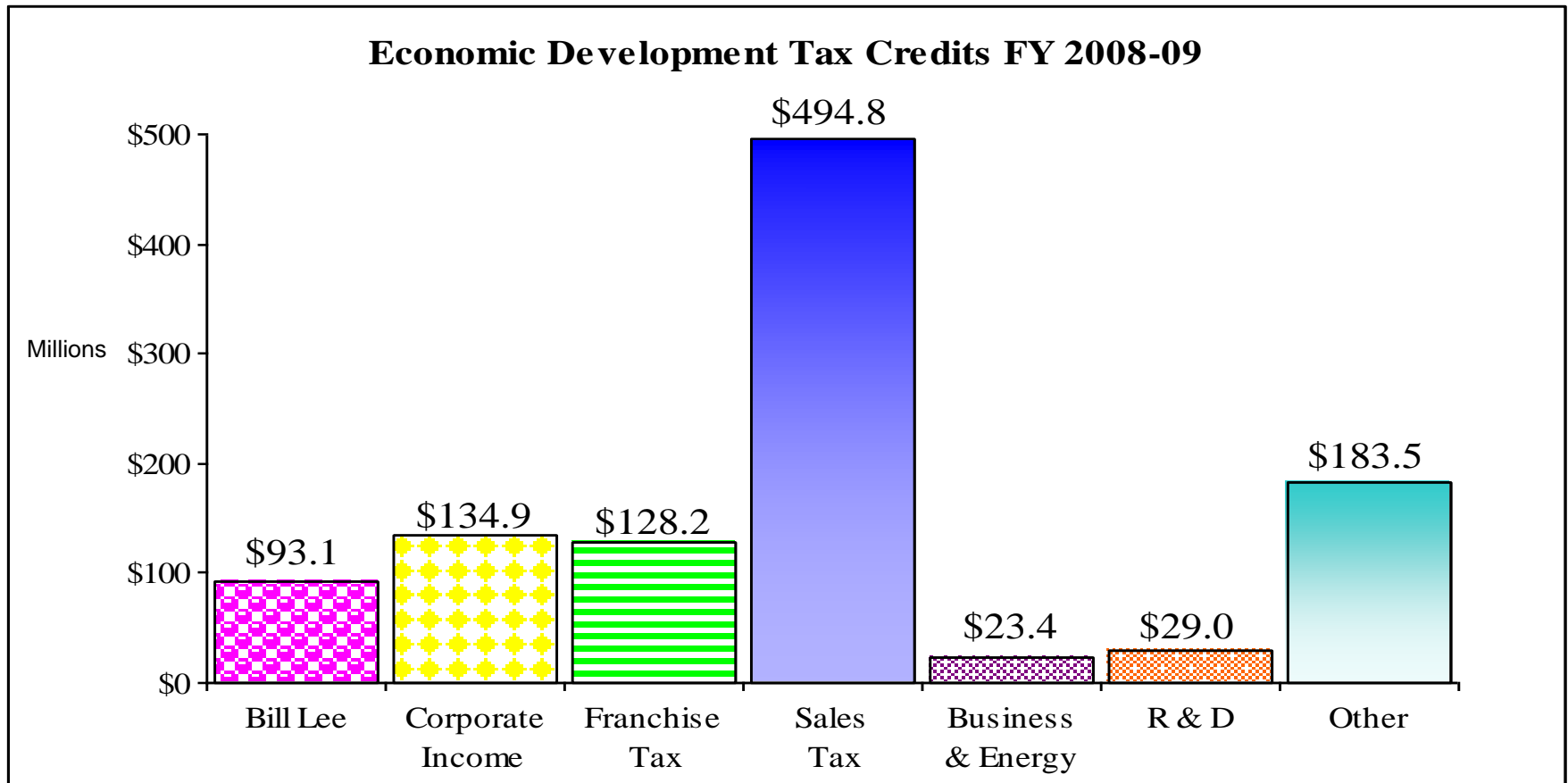
	Investment	Credits Generated
Tier One	402,168,157	28,095,346
Tier Two	235,859,128	11,843,752
Tier Three	703,924,546	36,273,286
Total	1,341,951,831	76,212,384

# Other Tax Incentives

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- ▣ Exemptions
- ▣ Deductions
- ▣ Refunds
- ▣ Caps
- ▣ Preferential rates

# Tax Incentives



Economic Development Inventory, February 2010, Available at:

[http://www.ncga.state.nc.us/fiscalresearch/frd\\_reports/frd\\_reports\\_pdfs/Inventories/Final\\_2010\\_EDl.pdf](http://www.ncga.state.nc.us/fiscalresearch/frd_reports/frd_reports_pdfs/Inventories/Final_2010_EDl.pdf)

# Questions?

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